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5 Attorneys for Plaintiffs
Juan Diaz, Keith Keesling,
6 Christopher Murphy, Gary
Weekley, Karen Allen and other
7 employees similarly situated

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 JUAN DIAZ, KEITH KEESLING,
CHRISTOPHER MURPHY, GARY
12 WEEKLEY, KAREN ALLEN and other
employees similarly situated,

13 Plaintiffs,

14 vs.

15 CITY OF SAN JOSE,

16 Defendant.
17

Case No. C07-06424-JW

NOTICE OF MOTION AND
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED

18 By this notice and motion, plaintiffs notify the court that on April 24, 2008,
19 Plaintiffs filed a case in the San Jose Division of the Northern District of California that
20 may qualify as a related case to this action.
21

22 On April 24, 2008, Plaintiffs filed the following case: JEFFREY WELCH, GLEN
23 BISHOP, MITCHELL WITSINSKI, ROBERT CULBERTSON and other employees similarly
24 situated, vs. CITY OF SAN JOSE, (Case No. C-08-02132-JF).

25 The action filed on April 24, 2008, may be related to this previously filed action
26 (Diaz et al. v. City of San Jose, Case No. C07-06424-JW) in that both actions
27 concern substantially the same parties: current and former employees of the City of
28

1 San Jose Fire Department as the plaintiffs and the City of San Jose as the defendant.
2 The cases both also concern similar claims in that both cases allege violations of the
3 Fair Labor Standards Act. Plaintiffs in both cases are represented by the same legal
4 counsel. Some plaintiffs in the Diaz et al v. City of San Jose case employees are also
5 plaintiffs in the Welch et al v. City of San Jose case.
6

7 Due to the overlap in evidence, parties and issues, it appears likely that there
8 could be an unduly burdensome duplication of labor and expense . In addition, there
9 could be possibly conflicting results if the cases are conducted before different
10 Judges.
11

12 Local Rule 3-12 requires, under these circumstances, that counsel promptly file
13 in the earliest-filed case an Administrative Motion to Consider Whether Cases Should
14 be Related. Local 3-12 also requires that the motion include a stipulation by the
15 parties that the cases be designated as related or explain to the court why no
16 stipulation is included. Plaintiffs' legal counsel requested such a stipulation from the
17 Defendant's legal counsel and defendant's legal counsel stated that they are not
18 willing to stipulate that the cases are related.
19

20 Therefore, Plaintiffs hereby file this motion and request that the Court consider
21 whether the cases should be related and that the Court so order if the Court deems it
22 appropriate.
23

24 Dated: May 9, 2008

25 WYLIE, McBRIDE,
26 PLATTEN & RENNER

27 /s/

28 CAROL L. KOENIG

Attorneys for Plaintiffs

Juan Diaz, Keith Keesling, Christopher Murphy,
Gary Weekley and Karen Allen